



Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)

Approved for use through xx/xx/200x. OMB 0651-00xx

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

END920000173US1

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on 02/15/06

Signature

Typed or printed
nameGeorgia Y. Brundege

Application Number

09/761,121

Filed

01/16/2001First Named Inventor Robyn R. Levine

Art Unit

3622

Examiner

Yehdega Retta

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☒

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒

attorney or agent of record.

Registration number 43,001☐

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

Signature

John R. Pivnichny

Typed or printed name

607-429-4358

Telephone number

02/14/2006

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒*Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



Docket No.: END920000173US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Patent Application of: Robyn R. Levine

Group Art Unit: 3622	:	IBM Corporation
Examiner: Yehega Retta	:	Intellectual Property Law
Serial No.: 09/761,121	:	Department IQ0A/040-3
Filed: 01/16/2001	:	1701 North Street
Title: BUSINESS OFFERING	:	Endicott, New York 13760
CONTENT DELIVERY		

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REASONS FOR REQUESTING A PRE-APPEAL BRIEF REVIEW

Dear Sir:

The Examiner has finally rejected on 11/16/2005 all of the claims in the present application under 35 U.S.C. 102(e) as being unpatentable over Roberts (U.S. Patent 6,101,486). This is also the same ground of rejection cited in the previous office action dated 05/24/2005.

Applicant submitted 08/23/2005 in response to this previous office action of 5/24/2005, argument showing that independent claim 1 is allowable over Roberts. Claim 1 clearly requires creating a vision of a supplier's core competencies based on three items.

1. said constraints of said point of contact, i.e. those

constraints determined in the first step of claim 1

2. said profiled past, i.e., the profiled past of said user retrieved in the second step of claim 1 which clearly must include purchased data which is grouped or keyed to presenting a lifestyle or lifestage view of said user

3. said current actions, i.e., those retrieved in the third step of claim 1.

The Examiner has not shown where Roberts describes creating a vision of a supplier's core competencies based on all 3 items. In particular, Roberts does not describe retrieving the profiled past of the user, including purchased data which is grouped or keyed to presenting a lifestyle or lifestage view of said user.

Claim 1 furthermore requires that an opportunity be created consistent with said vision, i.e., the vision created based on the 3 items above, by merging together and optimizing said vision with said supplier's channel awareness. Roberts also does not describe creating such an opportunity. The Examiner appears to state that Roberts' delivering content to a user describes this requirement. However, the portions of Roberts cited do not describe or suggest creating the specific opportunity, based on the vision, and merging together and optimizing requirements of claim 1.

Applicant therefore disagrees with the present rejection under 35 U.S.C. 102(e) because the Examiner has not shown where Roberts describes all of the features required by independent claim 1. These same features are also recited in all of the other independent claims (21, 22, and 23).

Applicant therefore respectfully requests a pre-appeal
brief review as noted on the attached from PTO/SB/33.

Respectfully submitted,

Dated: 02/14/06

By: John Pivnichny

John R. Pivnichny, Reg. No. 43,001

Telephone: (607) 429-4358

Fax: (607) 429-4119